

CHAPTER 9.26

Graffiti Materials, Sales and Possession

9.26.010 Possession of graffiti material by minors prohibited.

It shall be unlawful for any minor, except a minor under the direct supervision of the minor's parent, legal guardian, teacher, or a law enforcement officer in the performance of duty, to purchase, procure or possess, or attempt to purchase, procure or possess, any prohibited graffiti material. (Ord. 113-01, 2001)

9.26.020 Definitions.

A. Words and phrases used in this Chapter shall have the following meanings:

Broad-tipped marker pen means a felt-tip marker, or similar implement containing a fluid which is not water soluble with a tip that exceeds one-quarter ($\frac{1}{4}$) inch in width.

Paint pen means a tube, marker, or other pen-like instrument with a tip of one quarter ($\frac{1}{4}$) inch in diameter or less that contains paint or a similar fluid and an internal paint agitator.

Prohibited graffiti material means any can of spray paint, spray paint nozzle, broad tipped marker pen, paint pen, glass cutting tool, or glass etching tool or instrument.

Spray paint means any aerosol container that is made or adapted for the purpose of applying paint or other substance capable of defacing property.

Spray paint nozzle means a nozzle designed to deliver a spray of paint of particular width or flow from a can of spray paint.

B. It shall be an affirmative defense to charges under this Section that the minor possessing the material was:

1. Within their home or on property owned by the minor's parent or legal guardian;
2. At their place of employment; or
3. Upon real property with permission from the owner, occupant or person having lawful control of such property, to possess such materials. (Ord. 113-01, 2001)

9.26.030 Sale and display of prohibited graffiti materials.

A. Sale. It shall be unlawful for any person, other than a parent, legal guardian, school teacher or law enforcement officer in the performance of duty, to sell, exchange, give, deliver, loan or otherwise furnish or cause or permit to be sold, exchanged, given, delivered, loaned or otherwise furnished any prohibited graffiti material to any minor unless the minor is accompanied by their parent or legal guardian. It shall be an affirmative defense to prosecution under this Subsection that the employer has adopted and enforces a written policy against selling prohibited graffiti materials to minors, has informed its employees of the applicable laws regarding sales or prohibited graffiti materials to minors, requires employees to verify the age identification documents and has established and imposes sanctions for noncompliance.

B. Signs required. It is unlawful for any person who sells or offers to sell any prohibited graffiti material to fail to display a warning sign. Such warning sign shall be displayed in a prominent place in the building at all times and shall have a minimum height of fourteen (14) inches and a width of eleven (11) inches, with lettering of at least one-half (½) inch in height and shall read as follows:

WARNING
IT IS ILLEGAL FOR ANY PERSON UNDER EIGHTEEN YEARS OF AGE,
TO PURCHASE OR POSSESS SPRAY PAINT, SPRAY PAINT NOZZLE,
BROAD TIPPED MARKER PEN, PAINT PEN, GLASS CUTTING TOOL,
OR GLASS ETCHING TOOL OR INSTRUMENT UNLESS ACCOMPANIED
BY THEIR PARENT OR LEGAL GUARDIAN AND, UPON CONVICTION,
A FINE, NOT TO EXCEED \$1000 MAY BE IMPOSED.

C. Display and storage. It shall be unlawful for any person who owns, conducts, operates or manages a business where prohibited graffiti materials are sold or who sells or offers for sale any prohibited graffiti material to store or display, or cause to be stored or displayed, prohibited graffiti material in an area that is accessible to the public without employee assistance in the regular course of business pending legal sale or other disposition. This Chapter shall not be construed to preclude or prohibit the storage or display of prohibited graffiti material in an area viewable by the public so long as such items are not accessible to the public without employee assistance.

D. Contributing to unlawful possession. It shall be unlawful for any person, except a law enforcement officer in the performance of duty, to knowingly allow a minor to possess prohibited graffiti materials upon any public or private real property. It shall be an affirmative defense to charges under this Subsection that the minor possessing the material was:

1. Within the minor's home or on property owned by the minor's parent or legal guardian;
2. At the minor's place of employment; or
3. Upon real property with permission from the owner, occupant or person having lawful control of such property, to possess such materials.

E. Persons convicted of violating Subsection D above shall, in addition to any penalty imposed by the court, pay restitution for abatement or repair of any defacement or damage caused by the minor's use of prohibited graffiti material. (Ord. 113-01, 2001)

9.26.040 Performing services for minor.

It shall be unlawful for any person, whether for remuneration or not, to procure for any minor any article or material which the minor himself is forbidden by law to purchase. It shall be unlawful for any minor to engage or utilize the services of any other person, whether for remuneration or not, to procure for such minor any article or material which the minor is forbidden by law to purchase. (Ord. 113-01, 2001)